

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 495

Introduced by Senator Benoit

February 26, 2009

~~An act to amend Section 12012.90 of the Government Code, relating to tribal gaming.~~ *An act to add Section 53121 to the Government Code, relating to public safety.*

LEGISLATIVE COUNSEL'S DIGEST

SB 495, as amended, Benoit. ~~Tribal gaming; revenue sharing.~~ *Public safety: release of information to law enforcement agencies.*

Existing provisions of the Warren-911 Emergency Assistance Act, establishes the number "911" as the primary emergency telephone number for use in the state and requires the providing of enhanced service capable of selective routing, automatic number identification, or automatic location identification. Existing law requires that a provider of commercial mobile radio service, as defined, provide access for end users of that service to the local "911" emergency telephone systems, and that user validation not be required. Existing law authorizes a "911" call from a commercial mobile radio service telecommunications device to be routed to a public safety answering point other than the Department of the California Highway Patrol under certain circumstances.

This bill would authorize a law enforcement agency to request a telecommunications service provider, as defined, to provide customer information, including the name of the customer, location of a wireless device, and any additional telephone numbers of the customer, when (1) exigent circumstances exist, (2) the law enforcement agency has a court order for the customer information, or (3) the consumer or

subscriber lawfully consents to disclosure. The bill would require the telecommunications service provider, upon being provided the basis for a request pursuant to one of these 3 circumstances, to provide the law enforcement agency with the requested customer information and would provide that a telecommunications service provider, and its officers or employees, are not subject to liability when it acts in a reasonable manner upon receiving the request and that the good faith compliance with the request is a complete defense against any civil action brought for wrongful disclosure of customer information. The bill would require a telecommunications service provider to maintain a record of all requests for customer information from law enforcement agencies for not less than 2 years and would prohibit a telecommunications service provider from imposing any fee or charge for compliance with these requirements.

~~Existing law creates in the State Treasury the Indian Gaming Revenue Sharing Trust Fund and the Indian Gaming Special Distribution Fund for the receipt and deposit of moneys received by the state from certain Indian tribes pursuant to the terms of gaming compacts entered into with the state, and authorizes moneys in those funds to be used for certain purposes. Existing law provides for the transfer of moneys from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund under certain circumstances. Existing law provides that, if that transfer results in a surplus, the funds shall remain in the Indian Gaming Revenue Sharing Trust Fund for disbursement in future years, and if necessary, adjustments shall be made to future distributions from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund.~~

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 53121 is added to the Government Code,
- 2 to read:
- 3 53121. (a) As used in this section, the following terms have
- 4 the following meanings:

1 (1) “Customer information” includes, but is not limited to, the
2 name of the customer, the location of the wireless device, and any
3 additional telephone numbers for the customer.

4 (2) “Telecommunications service provider” means a “telephone
5 corporation,” as defined in Section 234 of the Public Utilities
6 Code.

7 (b) Notwithstanding any other provision of law, a law
8 enforcement agency may request a telecommunications service
9 provider to provide customer information if any of the following
10 is true:

11 (1) Exigent circumstances exist.

12 (2) The law enforcement agency has a court order for the
13 customer information.

14 (3) The consumer or subscriber lawfully consents to disclosure.

15 (c) Notwithstanding any other provision of law, upon being
16 provided the basis for a request pursuant to subdivision (b), the
17 telecommunications service provider shall provide the law
18 enforcement agency with the requested customer information. No
19 telecommunications service provider, or any officer or employee
20 thereof, shall be subject to liability when it acts in a reasonable
21 manner upon receiving the basis for a request pursuant to
22 subdivision (b), and the good faith compliance with the request is
23 a complete defense against any civil action brought for wrongful
24 disclosure of that customer information.

25 (d) A telecommunications service provider shall, for not less
26 than two years, maintain a record of all requests for customer
27 information from law enforcement agencies made pursuant to this
28 section.

29 (e) A telecommunications service provider shall not impose any
30 fee or charge for compliance with this section.

31 ~~SECTION 1. Section 12012.90 of the Government Code is~~
32 ~~amended to read:~~

33 ~~12012.90. (a) (1) For each fiscal year commencing with the~~
34 ~~2002–03 fiscal year to the 2004–05 fiscal year, inclusive, the~~
35 ~~California Gambling Control Commission shall determine the~~
36 ~~aggregate amount of shortfalls in payments that occurred in the~~
37 ~~Indian Gaming Revenue Sharing Trust Fund pursuant to Section~~
38 ~~4.3.2.1 of the tribal-state gaming compacts ratified and in effect~~
39 ~~as provided in subdivision (f) of Section 19 of Article IV of the~~
40 ~~California Constitution as determined below:~~

1 (A) For each eligible recipient Indian tribe that received money
2 for all four quarters of the fiscal year, the difference between one
3 million one hundred thousand dollars (\$1,100,000) and the actual
4 amount paid to each eligible recipient Indian tribe during the fiscal
5 year from the Indian Gaming Revenue Sharing Trust Fund.

6 (B) For each eligible recipient Indian tribe that received moneys
7 for less than four quarters of the fiscal year, the difference between
8 two hundred seventy-five thousand dollars (\$275,000) for each
9 quarter in the fiscal year that a recipient Indian tribe was eligible
10 to receive moneys and the actual amount paid to each eligible
11 recipient Indian tribe during the fiscal year from the Indian Gaming
12 Revenue Sharing Trust Fund.

13 (2) For purposes of this section, “eligible recipient Indian tribe”
14 means a noncompact tribe, as defined in Section 4.3.2(a)(i) of the
15 tribal-state gaming compacts ratified and in effect as provided in
16 subdivision (f) of Section 19 of Article IV of the California
17 Constitution.

18 (b) The California Gambling Control Commission shall provide
19 to the committee in the Senate and Assembly that considers the
20 State Budget an estimate of the amount needed to backfill the
21 Indian Gaming Revenue Sharing Trust Fund on or before the date
22 of the May budget revision for each fiscal year.

23 (c) An eligible recipient Indian tribe may not receive an amount
24 from the backfill appropriated following the estimate made
25 pursuant to subdivision (b) that would give the eligible recipient
26 Indian tribe an aggregate amount in excess of two hundred
27 seventy-five thousand dollars (\$275,000) per eligible quarter. Any
28 funds transferred from the Indian Gaming Special Distribution
29 Fund to the Indian Gaming Revenue Sharing Trust Fund that result
30 in a surplus shall revert back to the Indian Gaming Special
31 Distribution Fund following the authorization of the final payment
32 of the fiscal year.

33 (d) Upon a transfer of moneys from the Indian Gaming Special
34 Distribution Fund to the Indian Gaming Revenue Sharing Trust
35 Fund and appropriation from the trust fund, the California
36 Gambling Control Commission shall distribute the moneys without
37 delay to eligible recipient Indian tribes for each quarter that a tribe
38 was eligible to receive a distribution during the fiscal year
39 immediately preceding.

1 ~~(e) For each fiscal year commencing with the 2005-06 fiscal~~
2 ~~year, all of the following shall apply and subdivisions (b) to (d),~~
3 ~~inclusive, shall not apply:~~

4 ~~(1) On or before the day of the May budget revision for each~~
5 ~~fiscal year, the California Gambling Control Commission shall~~
6 ~~determine the anticipated total amount of shortfalls in payment~~
7 ~~likely to occur in the Indian Gaming Revenue Sharing Trust Fund~~
8 ~~for the upcoming fiscal year, and shall provide to the committee~~
9 ~~in the Senate and Assembly that considers the State Budget an~~
10 ~~estimate of the amount needed to transfer from the Indian Gaming~~
11 ~~Special Distribution Fund to backfill the Indian Gaming Revenue~~
12 ~~Sharing Trust Fund for the next fiscal year. The anticipated total~~
13 ~~amount of shortfalls to be transferred from the Indian Gaming~~
14 ~~Special Distribution Fund to the Indian Gaming Revenue Sharing~~
15 ~~Trust Fund shall be determined by the California Gambling Control~~
16 ~~Commission as follows:~~

17 ~~(A) The anticipated number of eligible recipient tribes that will~~
18 ~~be eligible to receive payments for the next fiscal year, multiplied~~
19 ~~by one million one hundred thousand dollars (\$1,100,000), with~~
20 ~~that product reduced by the amount anticipated to be paid by the~~
21 ~~tribes directly into the Indian Gaming Revenue Sharing Trust Fund~~
22 ~~for the fiscal year:~~

23 ~~(B) This amount shall be based upon actual payments received~~
24 ~~into the Indian Gaming Revenue Sharing Trust Fund the previous~~
25 ~~fiscal year, with adjustments made due to amendments to existing~~
26 ~~tribal-state compacts or newly executed tribal-state compacts with~~
27 ~~respect to payments to be made to the Indian Gaming Revenue~~
28 ~~Sharing Trust Fund.~~

29 ~~(2) The Legislature shall transfer from the Indian Gaming~~
30 ~~Special Distribution Fund to the Indian Gaming Revenue Sharing~~
31 ~~Trust Fund an amount sufficient for each eligible recipient tribe~~
32 ~~to receive a total not to exceed two hundred seventy-five thousand~~
33 ~~dollars (\$275,000) for each quarter in the upcoming fiscal year an~~
34 ~~eligible recipient tribe is eligible to receive moneys, for a total not~~
35 ~~to exceed one million, one hundred thousand dollars (\$1,100,000)~~
36 ~~for the entire fiscal year. The California Gambling Control~~
37 ~~Commission shall make quarterly payments from the Indian~~
38 ~~Gaming Revenue Sharing Trust Fund to each eligible recipient~~
39 ~~Indian tribe within 45 days of the end of each fiscal quarter.~~

1 ~~(3) If the transfer of funds from the Indian Gaming Special~~
2 ~~Distribution Fund to the Indian Gaming Revenue Sharing Trust~~
3 ~~Fund results in a surplus, the funds shall remain in the Indian~~
4 ~~Gaming Revenue Sharing Trust Fund for disbursement in future~~
5 ~~years, and if necessary, adjustments shall be made to future~~
6 ~~distributions from the Indian Gaming Special Distribution Fund~~
7 ~~to the Indian Gaming Revenue Sharing Trust Fund.~~

8 ~~(4) In the event the amount appropriated for the fiscal year is~~
9 ~~insufficient to ensure each eligible recipient tribe receives the total~~
10 ~~of two hundred seventy-five thousand dollars (\$275,000) for each~~
11 ~~fiscal quarter, the Department of Finance, after consultation with~~
12 ~~the California Gambling Control Commission, shall submit to the~~
13 ~~Legislature a request for a budget augmentation for the current~~
14 ~~fiscal year with an explanation as to the reason why the amount~~
15 ~~appropriated for the fiscal year was insufficient.~~

16 ~~(5) At the end of each fiscal quarter, the California Gambling~~
17 ~~Control Commission's Indian Gaming Revenue Sharing Trust~~
18 ~~Fund report shall include information that identifies each of the~~
19 ~~eligible recipient tribes eligible to receive a distribution for that~~
20 ~~fiscal quarter, the amount paid into the Indian Gaming Revenue~~
21 ~~Sharing Trust Fund by each of the tribes pursuant to the applicable~~
22 ~~sections of the tribal-state compact, and the amount necessary to~~
23 ~~backfill from the Indian Gaming Special Distribution Fund the~~
24 ~~shortfall in the Indian Gaming Revenue Sharing Trust Fund in~~
25 ~~order for each eligible recipient tribe to receive the total of two~~
26 ~~hundred seventy-five thousand dollars (\$275,000) for the fiscal~~
27 ~~quarter.~~

28 ~~(6) Based upon the projected shortfall in the Indian Gaming~~
29 ~~Revenue Sharing Trust Fund, for the 2005-06 fiscal year, the sum~~
30 ~~of fifty million dollars (\$50,000,000) is hereby transferred from~~
31 ~~the Indian Gaming Special Distribution Fund to the Indian Gaming~~
32 ~~Revenue Sharing Trust Fund and is hereby appropriated from that~~
33 ~~fund to the California Gambling Control Commission for~~
34 ~~distribution to each eligible recipient tribe pursuant to this section.~~

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**All matter omitted in this version of the bill
appears in the bill as introduced in the
Senate, February 26, 2009 (JR11)**

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